

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Harrisonburg Division

CONSUMER FINANCIAL PROTECTION  
BUREAU; COMMONWEALTH OF  
MASSACHUSETTS; THE PEOPLE OF  
THE STATE OF NEW YORK, by LETITIA  
JAMES, Attorney General of the State of  
New York; and COMMONWEALTH OF  
VIRGINIA, *EX REL.* MARK R. HERRING,  
ATTORNEY GENERAL,

Plaintiffs,

v.

NEXUS SERVICES, INC.; LIBRE BY  
NEXUS, INC.; MICHEAL DONOVAN;  
RICHARD MOORE; and EVAN AJIN,

Defendants.

Case No.: 5:21-cv-00016-EKD

Judge Elizabeth K. Dillon  
Magistrate Judge Joel Hoppe

**DECLARATION OF ADAM D. BOWSER**

I, Adam D. Bowser, hereby declare and state as follows:

1. I am an attorney duly licensed to practice law before the courts in the Commonwealth of Virginia and in the District of Columbia. I am admitted to practice in the Western District of Virginia. I am a partner with the law firm of ArentFox Schiff LLP, attorneys of record for Defendants Nexus Services, Inc.; Libre by Nexus, Inc.; Michael Donovan; Richard Moore; and Evan Ajin (“Defendants”). If called upon as a witness, I could and would testify to the matters stated herein based upon my personal knowledge.

2. I submit this Declaration in response to the Court’s September 6, 2022 Order (“Order”), ECF No. 159, directing “at least one attorney of record for Plaintiffs and for Defendants [to] file a sworn declaration identifying with specificity” (1) “[t]he documents or

other material that any Defendant has produced (and Plaintiffs have received), as directed by Order of June 8, 2022, ECF No. 129 [“June Order”]; and (2) [such] documents ... which have not been produced by a Defendant as of the date of the counsel’s declaration.” Order at 1.<sup>1</sup>

3. In Defendants’ Opposition to Motion for Sanctions (ECF No. 153), a complete and accurate summary of the deposition material produced and/or court reporter information disclosed to Plaintiffs was provided to the Court. *Id.* at 2-3. No further developments have occurred with respect to the prior deposition material to my knowledge than what was previously summarized for the Court, and I incorporate this summary by reference.

4. With respect to the database material directed to be exported, I was informed that Defendants have produced all the Lightspeed data for 2022 and 2021.

5. As detailed in the attached Declaration of Evan Ajin, Mr. Ajin attests that he personally delivered an external hard drive containing the entirety of the Capsule database files responsive to Plaintiffs’ discovery requests to the Plaintiff Consumer Protection Financial Bureau’s office on September 23, 2022. *See* Ex. A (Decl. of Evan Ajin).

6. The remaining database material (pre-2021 Lightspeed, Netsuite, Quickbooks, American Spirit, and Five9) has not yet been produced, but Defendants represent that they are committed to producing the remaining database (and other discovery) material yet to be produced.

7. On September 7, 2022, and in response to paragraphs 6 and 7 of the June Order, Defendants produced financial records identified as having not been produced by either Fusion CPA or the financial institutions which received subpoenas from Plaintiffs in this action. This production consisted of 1,050 separate files, amounting to 702 MB of data. The individual defendants have not yet produced material, in this action, responsive to paragraph 9 of the June Order.

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<sup>1</sup> Because I lack personal knowledge of the contents of the hard drive hand delivered to the Consumer Financial Protection Bureau on September 23, 2022, a declaration from Defendant Evan Ajin is included as Exhibit A, based on his personal knowledge.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 26, 2022

By: /s/ Adam Bowser

Adam Bowser (Bar No. 76523)

1717 K Street, NW

Washington, DC 20006-5344

Tel: 202-857-6221

Fax: 202-857-6395

Attorney for Nexus Services, Inc.; Libre by

Nexus, Inc.; Micheal Donovan; Richard

Moore; and Evan Ajin

# EXHIBIT A

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*REL.* MARK R. HERRING, ATTORNEY  
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Judge Elizabeth K. Dillon  
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J

**DECLARATION OF EVAN AJIN**

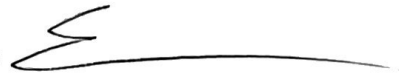
I, Evan Ajin, hereby declare and state as follows:

1. I have personal knowledge of the facts stated herein. If called to testify, I could (and would) state such facts.
2. I am the Vice President of Operations of Nexus Services, Inc. ("Nexus").
3. On September 23, 2022, I personally delivered an external hard drive to the Consumer Financial Protection Bureau's Washington, D.C. office, located at 1700 G. Street NW, Washington, D.C. 20552.
4. To the best of my knowledge, this hard drive contained the entirety of all Capsule database files currently available to Nexus responsive to Plaintiffs' discovery requests.
5. An individual I believe to be a Consumer Financial Protection Bureau employee

or agent took possession of the above-referenced external hard drive in the main lobby.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 26, 2021

By: /s/   
Evan Ajin